

Message Text

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ACTION EB-06

INFO OCT-01 EA-10 ISO-00 SSO-00 NSCE-00 INRE-00 SS-15 L-02

H-02 NSC-05 CAB-05 CIAE-00 COME-00 DODE-00 DOTE-00

INR-07 NSAE-00 RSC-01 FAA-00 DRC-01 /055 W

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FM AMEMBASSY MANILA

TO JUSTICE DEPARTMENT WASHDC IMMEDIATE

US ATTORNEY SAN FRANCISCO CALIF

INFO SECSTATE WASHDC 7709

UNCLAS SECTION 1 OF 2 MANILA 12418

JUSTICE DEPT FOR RICHARD LOCKE

E.O. 11652: N/A

TAGS: EAIR, RP

SUBJ: CIVAIR - PAL SEIZURE CASE

REF STATE 226683

1. PER REQUEST REFTTEL, FOLLOWING AFFIDAVIT IS SUBMITTED:

QUOTE

I, TERRELL E. ARNOLD, BEING FIRST DULY SWORN UPON OATH
DEPOSE AND STATE:

THAT I AND EMBASSY LEGAL OFFICER BUTLER MET WITH THE
PHILIPPINE CIVIL AIR TEAM ON JULY 16 AND 17, AND ON
SUBSEQUENT OCCASIONS RELATED TO DISCUSSION OF BILATERAL
AIR ARRANGEMENTS. THE PHILIPPINE TEAM CONSISTED OF AMBASSA-
DOR FELIPE MABILANGAN (CHAIRMAN), DEPARTMENT OF FOREIGN
AFFAIRS; MISS VESTA CUYUGAN, DFA ATTORNEY; MR. PACIFICO
AGCAOILI, EXECUTIVE DIRECTOR PHILIPPINE CAB; PAL ATTORNEY
HENRY GOZON AND PAL FICE PRESIDENT RAFAEL IGOA; AND A
REPRESENTATIVE OF THE PHILIPPINE DEPARTMENT OF TOURISM.

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MR. IGOA WAS PRESENT FOR A LATE AFTERNOON SESSION ON

JULY 17. FOR MOST SESSIONS, HOWEVER, PAL WAS REPRESENTED IN TALKS BY THEIR ATTORNEY HENRY GOZON.

THAT THE POSITION OF PAL ATTORNEY GOZON, REITERATED BY MR. IGOA, WAS THAT PAL WOULD OPPOSE ANY RENEWAL OF THE FLYING TIGER LINE OPERATING AUTHORITY WHEN THAT AUTHORITY CAME UP FOR RENEWAL ON OCTOBER 10, 1974, AND WOULD SEEK CANCELLATION OF CARGO PERMITS OF PAN AMERICAN WORLD AIRWAYS.

THE PAL POSITION WAS NOT ADVANCED AT ANY STAGE, HOWEVER, AS THE OFFICIAL POSITION OF THE PHILIPPINE GOVERNMENT.

THAT DURING THE PERIOD IN QUESTION TALKS WERE BEING CONDUCTED BETWEEN REPRESENTATIVES OF THE UNITED STATES AND OF THE PHILIPPINE GOVERNMENT. THEY WERE NOT BEING PURSUED DIRECTLY AND SOLELY WITH REPRESENTATIVES OF PAL. A PROPOSAL WAS CONVEYED BY ME AS CHAIRMAN OF THE EMBASSY PANEL TO THE CHAIRMAN OF THE PHILIPPINE PANEL AT THE BEGINNING OF TALKS ON JULY 16. THIS TEXT AND SUBSEQUENT ELABORATION OF IT, AS DEVELOPED IN OFFICIAL BUT INFORMAL TALKS AND IN CONSULTATIONS WITH PRINCIPALS, WAS THE ONLY TEXT UNDER CONSIDERATION. IT WAS EXPLICITLY STATED AND AGREED BETWEEN AMBASSADOR MABILANGAN AND ME THAT ALL PROPOSALS FOR A DRAFT OR FOR SUGGESTED CHANGES IN SUCH A DRAFT WERE ACCEPTABLE TO EITHER SET OF PARTICIPANTS ONLY ON AN QUOTE AD REFERENDUM UNQUOTE BASIS, TO BE REFERRED TO PRINCIPALS FOR COMMENT OR APPROVAL. MR. IGOA AND MR. GOZON WERE PRESENT WHEN THIS WAS SPECIFICALLY COMMUNICATED TO AMBASSADOR MABILANGAN AND EXPLICITLY ACKNOWLEDGED BY HIM. SO-CALLED QUOTE COUNTER PROPOSALS, UNQUOTE AS CONVEYED BY THE PHILIPPINE PANEL, WERE INCORPORATED IN SOME INSTANCES IN THE AD REFERENDUM DRAFT.

THAT THE MEMBERS OF THE TEAM, INCLUDING PHILIPPINE GOVERNMENT AND PAL REPRESENTATIVES WERE INFORMED ON JULY 17 THAT USCAB HAD GRANTED INTERIM AUTHORITY TO PAL TO FLY THAT DATE ON THE BASIS OF AN APPLICATION BY PAL'S ATTORNEY IN WASHINGTON, AND THAT THIS AUTHORITY HAD BEEN CONVEYED DIRECTLY BY USCAB TO PAL'S ATTORNEY. IT WAS MADE CLEAR TO ALL PARTIES THAT, AS I UNDERSTOOD THE ACTION, USCAB HAD GRANTED SUCH UNCLASSIFIED

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AUTHORITY ONLY ON AN INTERIM BASIS. BUT UNDER THAT AUTHORITY THE DC-10 COULD MAKE THE JULY 17 FLIGHT, IF PAL SO DESIRED. IN RESPONSE TO HIS QUESTION AT THE TIME, MR. IGOA WAS INFORMED THAT NEITHER I NOR THE EMBASSY HAD AUTHORITY ONE WAY OR THE OTHER TO GIVE OR TO TAKE AWAY AUTHORITY TO MAKE THE FLIGHT.

THAT ON MR. IGOA'S INVITATION TO WITNESS THE TAKEOFF OF THE

INAUGURAL PAL DC-10 FLIGHT TO THE U.S. ON JULY 17, I ACCOMPANIED MR. IGOA AND OTHER MEMBERS OF THE PHILIPPINE PANEL TO THE AIRPORT. IN INFORMAL CONVERSATION (THERE WAS NO CEREMONY, NOR WAS THERE OCCASION FOR SPEECHES) I EXPRESSED HOPE THAT PAL'S NEW SERVICE WAS THE BEGINNING OF IMPROVED AND EXPANDED SERVICE BY BOTH U.S. AND PHILIPPINE CARRIERS. THE DC-10 FLIGHT ITSELF WAS DELAYED FOR TECHNICAL REASONS, HOWEVER, AND I DID NOT STAY FOR THE TAKEOFF.

THAT NORTHWEST AIRLINES SUBMITTED A LETTER OF APPLICATION TO THE PHILIPPINE CAB ON JULY 18, A COPY OF WHICH WAS FURNISHED TO ME, REQUESTING AUTHORITY TO IMPLEMENT A NEW B-747 SCHEDULE ON A PROVISIONAL BASIS IN LIGHT OF THE PROVISIONAL AUTHORIZATION PROVIDED BY THE USCAB TO PAL. THE PHILIPPINE CAB APPROVED THIS REQUEST AND THE APPROVAL WAS CONVEYED TO NORTHWEST REPRESENTATIVE DOSCH BY TELEPHONE IN THE PRESENCE OF MEMBERS OF THE US EMBASSY AND PHILIPPINE TEAMS. I CALLED THE PROVISIONAL NATURE OF THE PHILIPPINE CAB AUTHORITY TO MR. DOSCH'S ATTENTION, AND NOTED THAT IT WAS RECIPROCAL. UNDER THIS INTERIM AUTHORITY OF THE PHILIPPINE CAB, TWO FLIGHTS WERE MADE BY NORTHWEST AIRLINES.

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INFO OCT-01 EA-10 ISO-00 SSO-00 NSCE-00 INRE-00 SS-15 L-02

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TO JUSTICE DEPARTMENT WASHDC IMMEDIATE

US ATTORNEY SAN FRANCISCO CALIF

INFO SECSTATE WASHDC 7710

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THAT I WAS ASKED BY AMBASSADOR MABILANGAN ON JULY 20 TO DMWVVB FURTHER DISCUSSION PENDING CONSIDERATION OF ISSUES OVER THE WEEKEND AMONG MEMBERS OF THE PHILIPPINE TEAM,

AND I AGREED TO DO SO.

THAT FOLLOWING PRESENTATION OF NEW PROPOSALS BY THE PHILIPPINE PANEL IN A MEETING ON THE AFTERNOON OF JULY 22, I INFORMED AMBASSADOR MABILANGAN THAT THESE PROPOSALS WOULD BE CONVEYED TO WASHINGTON FOR REVIEW AND COMMENT. MR IGOA AND OTHER MEMBERS OF THE PHILIPPINE PANEL WERE REMINDED AGAIN AT THIS TIME THAT ALL DISCUSSIONS WERE AD REFERENDUM, AND THAT THE APPARENT INABILITY TO AGREE ON ISSUES, WHILE OBVIOUSLY NOT AFFECTING SPECIFIC POINTS POSSIBLY AGREED ELSEWHERE IN THE DISCUSSION, STILL JEOPARDIZED ANY PROSPECT OF AGREEMENT. IT SHOULD BE NOTED THAT NO NEW ISSUES, AS SUCH, WERE PUT FORWARD, BUT THE SAME PROBLEMS RELATING TO PROVISIONS FOR ALL-CARGO SERVICE REMAINED AND WERE STILL UNRESOLVED.

THAT I INFORMED AMBASSADOR MABILANGAN, MR. IGOA AND MR. AGCAOILI ON JULY 17 THAT THE USCAB HAD GRANTED TEMPORARY AUTHORITY TO PAL TO FLY THE DC-10 OVER ITS REGULARLY-SCHEDULED ROUTE (PAL'S OPERATING PERMIT SPECIFIES MANILA-HONOLULU-SAN FRANCISCO), AND THAT SUCH AUTHORITY HAD BEEN CONVEYED TO PAL'S WASHINGTON ATTORNEY. THE SAME OFFICIALS

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WERE ALSO NOTIFIED OF USCAB AUTHORITY FOR A FLIGHT ON JULY 20. ON JULY 22 I INFORMED MISS CUYUGAN OF DFA AND MR AGCAOILI, WHO WAS WITH PAL ATTORNEY GOZON AT THE TIME, THAT I HAD RECEIVED NO INDICATION OF FURTHER USCAB AUTHORITY TO FLY THE DC-10. FOLLOWING DEPARTURE OF THE DC-10 ON JULY 22, AND SUBSEQUENT TO REPORTING THIS FACT TO WASHINGTON, I WAS INFORMED THAT THE USCAB HAD AUTHORIZED THE JULY 22 FLIGHT BUT THAT NO FURTHER FLIGHTS OF THE DC-10 WERE AUTHORIZED. I CONVEYED THIS FACT TO AMBASSADOR MABILANGAN, TO MR AGCAOILI AND TO MR GOZON AT VARIOUS TIMES ON JULY 23 AND 24. MR IGOA WAS NOT AVAILABLE ON THE LATTER DATE, AND HE DID NOT TAKE PART IN DISCUSSIONS AFTER JULY 22. I WAS ASSURED BY AMBASSADOR MABILANGAN AND BY MR AGCAOILI THAT THE USCAB RULING WAS UNDERSTOOD.

THAT I AGAIN REITERATED THAT PAL HAD NO AUTHORITY TO MAKE THE JULY 24 DC-10 FLIGHT TO MR AGCAOILI IMMEDIATELY PRIOR TO TAKEOFF OF THE FLIGHT ON THE EVENING OF JULY 24. MR AGCAOILI INFORMED ME AT THAT TIME THAT THE LACK OF AUTHORITY TO MAKE THE JULY 24 DC-10 FLIGHT HAD ALREADY BEEN CONVEYED BY HIS OFFICE TO PAL.

THAT IN RESPONSE TO A TELEPHONE REPORT TO ME BY MR. IGOA EARLY ON THE MORNING OF JULY 25 THAT PAL HAD BEEN REQUESTED BY US AUTHORITIES TO TURN THE FLIGHT AROUND AT HONOLULU, I REMINDED MR IGOA THAT USCAB AUTHORITY FOR THE FLIGHT HAD NOT BEEN GRANTED AND SUGGESTED THAT COMPLIANCE WITH THE

REQUEST TO RETURN THE FLIGHT TO MANILA WOULD BE BEST. THIS
WAS THE ONLY DIRECT CONTACT I HAD WITH MR. IGOA IN THE
PERIOD AFTER JULY 22.

DATED THIS 17TH DAY OF OCTOBER, 1
14 IN THE CITY OF MANILA,
REPUBLIC OF THE PHILIPPINES.

TERRELL E ARNOLD UNQUOTE

2. ABOVE EXECUTED AFFIDAVIT BEING SENT REGISTERED AIRMAIL.

3. FYI. THE FOREGOING STATEMENTS ARE PROVIDED IN THE ORDER
OF THE QUESTIONS ASKED IN PARAGRAPH 8 REFTEL.
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Message Attributes

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